IN THE HIGH COURT OF UTTARANCHAL, AT NAINITAL

Criminal Transfer Application No. 14/2003

Smt. Neema Joshi ……Applicant/Petitioner

Versus

State of Uttaranchal and other …… Respondents

Hon'ble Irshad Hussain, J.

Heard Sri S. K. Shah learned counsel for the applicant and Sri L. M. Verma learned A.G.A. Perused the record. Respondent no.2-husband was personally served but did not put in appearance.

This is a petition under Section 407 of the Code of Criminal Procedure (for short 'Code') for seeking transfer of criminal case no. 1134/2002 State Vs. Lalit Mohan Joshi from the court of CJM, Pithoragarh to the CJM, Bageshwar.

From perusal of the record, it is evident that the petitioner was allegedly assaulted and turned out of the house by the husband-respondent no.2 for in connection with dowry demand. On information of the incident which took place in Pithoragarh, the father of the petitioner-wife went there and took her daughter to Bageshwar where the petitioner-wife is now residing. The FIR of the incident was lodged at P.S. Bageshwar and the same was remitted to the District Pithoragarh for investigation. After investigation, the charge-sheet has been submitted against the respondent no.2-husband under Section 498A, 323, 504 and 506 IPC and ¾ Dowry Prohibition Act. The petitioner-wife and her father are apprehending assault from respondent no.2-husband, in case they visit Pithoragarh for recording their evidence in the case. In the past also the respondent no.2-husband had shown similar tendency and therefore the allegation of the petitioner cannot be said to be without any justification. It is also of significance that the petitioner-wife has filed a petition under Section 125 of the Code which is pending for disposal before the CJM, Bageshwar and considering the allegations which stand rebutted it will be in the interest of justice that the criminal case no. 1134/2002 be transferred to Bageshwar for trial according to law.

The petition is allowed and the criminal case no. 1134/2002 pending before the CJM, Pithoragarh is transferred to the CJM, Bageshwar for disposal according to law.

(Irshad Hussain, J.)

Dated 02.04.2004

Rawat